

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

JUAN SANDRO CABRERA,

Petitioner,

Case No. 24-229

vs

Hon.

NATHAN HOFFMAN, Warden

Respondent.

PETITION UNDER 28USC 2254
FOR A PERSON IN STATE CUSTODY

1. (a) Name and Location of Court that entered the judgment of conviction you are challenging.

Circuit Court for the County of Ottawa, Michigan.
Grand Haven, Michigan

(b) Criminal Docket or Case Number.

19-043047-FC

2. Date of Judgment of Conviction.

January 6, 2020

3. Identify all counts and crimes for which you were convicted and sentenced in this case.

Gang Membership

Sentence #1

First Degree Homicide

Sentence #2

Felony Firearm

Sentence #3

4. Length of Sentence for each count or crime for which you were convicted in this case.

Gang Membership	7 years to 20 years
First Degree Homicide	Life
Felony Firearm	2 years consecutive

5. What was your plea?

Not guilty

6. What kind of trial did you have?

Jury

7. Did you testify at trial?

No

8. Did you file a direct appeal to the Michigan Court of Appeals from the Judgment of Conviction?

Yes.

9. (a) Date you filed: January 21, 2020

(b) Docket Number: 352319

(c) Result: Affirmed conviction and sentence

(d) Date of Result: March 10, 2022

(e) Grounds Raised:

1. Ineffective Assistance of Counsel for Failure to Challenge Identification Evidence
2. Ineffective Assistance of Counsel for failure to Object to Gang Testimony
3. Insufficient Evidence to Establish gang-felony
4. Ineffective Assistance for Failure to Investigate
5. Ineffective Assistance for Failing to Challenge premeditation charge.

6. Ineffective Assistance for Failure to object to autopsy photos.
7. Cumulative Error.

(f) Did you seek further review from the Michigan Supreme Court?

Yes.

- (1) Date Filed: May 4, 2022
- (2) Docket Number: 164354
- (3) Result: Affirmed Conviction
Remand for re-sentencing on homicide conviction
- (4) Date of Result: March 6, 2023
- (5) Grounds Raised: Same as Court of Appeals

Did you file a petition for certiorari in the United States Supreme Court?

No.

10. Did you file a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules?

No.

11. If your answer was yes.

N/A

12. Other than a direct appeal or a motion for relief from judgment have previously filed any petitions, applications, or motions, with respect to this judgment in any court, state or federal?

No.

13. If your answer was yes.

N/A

14. Ground One. Ineffective Assistance of Counsel (various theories).

(a) See attached brief for supporting facts and argument

(b) Did you raise this issue on appeal?

Yes

(c) Did you raise this issue in a motion for relief from judgment pursuant to Subchapter 6.500 of the Michigan Court Rules.

N/A

(d) Describe any other procedures that you have used to raise Ground One in state courts.

N/A

15. Have you previously filed any type of petition, application or motion in a federal court regarding the conviction that you challenge in this petition?

No.

16. Do you have any petition or appeal now pending as to the judgment you are challenging?

Yes. Re-sentencing proceeding is pending in the Ottawa County Circuit Court Pursuant to remand from Supreme Court. Re-sentencing is based on The petitioner's age when the offense was committed.

Sentencing Issues are not raised in this petition. The sentencing issue was raised Sua sponte by the Michigan Supreme Court. It was not raised as part of the petitioner's direct appeals.

17. Give the name and P-number if known of each attorney who represented you in the following stages of the judgment you are challenging.

From preliminary hearing through sentencing:

Christopher Kessel	P71960
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On Appeal:

Frank Stanley	P28826
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18. Timeliness of Petition.

This petition is timely as it is filed within one year of the March 6, 2023 decision of the Michigan Supreme Court.

19. N/A

20.

Respectfully Submitted,

FRANK STANLEY, P.C.

Date: **March 6, 2024**

BY: /s/ Frank Stanley
Frank Stanley (P28826)
Attorney for Petitioner

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